W.P. 1301 OF 2004 (M/S)

Hon. P.C. Pant, J.

By means of this petition, the petitioner has challenged the rejection by the Judge Family Court, Nainital, of the request for recalling the witness under Section 311 of the Code of Criminal Procedure, 1973.

Heard learned counsel for the petitioner.

I have perused the impugned order dated 04.12.2004 and also the statement of the witness recorded by the Judge Family Court, Nainital. The petitioner has sought recalling of the witness in the proceedings under Section 125 of the Cr.P.C. in which her statement has been recorded and she has been cross-examined at length.

Learned counsel for the petitioner submits that he wants to confront that the statement made by the witness under Section 161 of the Cr.P.C. However, said statement appears to have been recorded in connection with the criminal case registered under Section 323 / 498-A of the Indian Penal Code. As such, the learned Judge Family Court, Nainital has rightly rejected the request of the petitioner, as he did not think it fit and just if the evidence sought to be adduced was essential for the decision in the case under Section 125 of the Cr.P.C.

Therefore, the writ petition is dismissed in limine.

(P.C.Pant, J.)

Dt. 15.12.2004

HN